

**OPTOMETRY EXAMINING BOARD  
MINUTES  
June 2, 2005**

**MEMBERS PRESENT:** Gregory Foster, Kerry Griebenow, Leon Griffin,  
Kathi Leach, Richard Wright

**MEMBERS EXCUSED:** Raymond Heiser and Swaminat Balachandran

**STAFF PRESENT:** Jeff Scanlan, Director of Health Service Professions;  
Ruby Jefferson-Moore, Legal Counsel; Gina York, Bureau  
Assistant

**GUESTS:** Peter Theo, WOA; Tony Driessen, WOA; Nicole Girkin,  
Walmart; Chad Leather, Walmart; Jeremy Levin, WI  
Medical Society

**CALL TO ORDER**

Chair Kerry Griebenow called the meeting to order at 9:40 a.m. A quorum of five members was present.

**APPROVAL OF AGENDA**

**Additions to the Agenda:**

- Open Session: After Item E. – Add Approval of 2006 Meeting Dates
- Open Session: Discussion and Review of LRB-0678/P1 Proposed Revisions to Chapter 449 will be included under Item G. on the agenda.

**MOTION:** Kerry Griebenow moved, seconded by Gregory Foster, to approve the agenda as amended. Motion carried unanimously.

**PUBLIC HEARING ON ADMINISTRATIVE RULES RELATING TO CONDUCT,  
EXAMINATIONS, CONTINUING EDUCATION, AND AFFECTING  
SMALL BUSINESS**

A public hearing was held at 9:44a.m. on June 2, 2005. There was one individual who presented at today's hearing and there were no major objections. The public hearing ended at 9:50 a.m.

## APPROVAL OF MINUTES OF OCTOBER 21, 2004

### Amendments to the Minutes:

- Page 5: Under Visitors Comments- Change “440” to “449”.

**MOTION:** Richard Wright moved, seconded by Leon Griffin, to approve the October 21, 2004 minutes as amended. Motion carried unanimously.

## APPROVAL OF MINUTES OF MARCH 24, 2005 (TELECONFERENCE)

### Amendments to the Minutes:

None.

**MOTION:** Kathy Leach moved, seconded by Leon Griffin, to approve the March 24, 2005 Teleconference minutes as written. Motion carried unanimously.

## ADMINISTRATIVE REPORT

Jeff Scanlan, Director of Health Service Professions, did an annual review of the Department policies as follows:

- A) Travel Rules and Policies: Annual meetings, intent to travel, In-State and Out-of-State travel were discussed and handouts were provided indicating the allowances for travel and limitations on in-state and out-of-state travel. The Board gets one annual meeting a year in which a designee can attend. Board approval is required to attend such annual meetings and the paperwork for the intent to travel would need to be submitted prior to attending.
- B) The Hotel Policy: This policy was reviewed with the Board regarding hotel room reservations for all meetings. The hotel policy is as follows:

### DEPARTMENT POLICY

1. If the Board Member is not going to use the reserved hotel room, it is the **responsibility of the Board Member** to cancel the room by calling the hotel themselves. If the room is not cancelled, the Board Member would be responsible to pay the bill.
2. If we cancel a meeting because of lack of quorum or no business, it should be our responsibility to cancel any room reservations.

- C) The Quorum Confirmation Policy: This policy was reviewed with the Board and it was clarified with them that if we do not hear from board members we would assume they will be attending the meeting. We will not be checking for a quorum each time. Only if we are contacted by two or more individuals indicating they will not be able to attend an upcoming scheduled meeting will we contact Board members to verify a quorum.

The new DRL Secretary, Celia Jackson, was introduced to the Board at today's meeting. The building renovations are in progress with a target dates set for September of 2005. Jeff Scanlan provided and update to the Board regarding legislation RL 93-544 and Act 151 and answered any questions surrounding them.

### **SBRAC COMMENTS ON OPTO 5, 6 PROPOSED RULES CHANGE**

Jeff Scanlan, Director of Health Service Professions, provided the latest information regarding the rulemaking process and the composition of the SBRAC Committee. Mr. Scanlan shared with the Board the SBRAC comments regarding the current proposed rule changes to OPTO 5 and 6 at today's meeting. There was a discussion surrounding the SBRAC's comments and the Board provided the reasoning behind these proposed changes to Opto 5 and 6 rules and will prepare a written response to their comments. Ruby Jefferson-Moore, Legal Counsel, and Mr. Scanlan will shared this information with the Committee and the justifications provided at the June 2, 2005 meeting. Ruby Jefferson-Moore, Legal Counsel, shared that the Clearinghouse Report review and response will need to be completed by June 12, 2005. The Board requested to appoint a designee to assist and consult with Legal Counsel in the rulemaking process to finalize these proposed rule changes. The following actions were taken at today's meeting.

**MOTION:** Leon Griffin moved, seconded by Kathi Leach, to appoint Kerry Griebenow to prepare a written response to the SBRAC comments provided at today's meeting. Motion carried unanimously.

**MOTION:** Richard Wright moved, seconded by Kathi Leach, to appoint Gregory Foster as the designated Board representative to review the Clearinghouse Report regarding these rule changes. Motion carried unanimously.

**MOTION:** Kathi Leach moved, seconded by Gregory Foster, to appoint Kerry Griebenow to review the report to the legislature on behalf of the Board when it becomes available. Motion carried unanimously

### **COPY OF 2005 BOARD MEETING DATES**

The Board received a copy of the 2005 meeting dates at today's meeting for their records.

### **APPROVAL OF 2006 BOARD MEETING DATES**

The Board reviewed the 2006 meeting dates listed in the May 31, 2005 memorandum to the Board. These dates were accepted as presented at the June 2, 2005 meeting.

### **PRESENTATION OF PROPOSED STIPULATIONS**

None.

### **PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA**

None.

### **SUMMARY REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES**

Ruby Jefferson-Moore, Legal Counsel, reviewed the summary reports at today's meeting and was available to address any questions from the Board.

### **REPORT OF STATUTES AND RULES COMMITTEE**

Gregory Foster, Chair, reported to the Board that currently there are two draft pieces of legislation pertaining to revisions in Chapter 449. One is LRB 09-228 which was the proposal by the Wisconsin Optometry Association (WOA) and the Committee reviewed those changes with attendance of two representatives from WOA. The second one LRB 06-078 was the proposal from the previous Optometry Examining Board. The Committee has decided not to endorse either one of these two pieces of legislation but to endorse in concept that Chapter 449 certainly does need revisions and we want to take the time to compare these two separate pieces of legislation. We will then forward the best of both in the new rule revision to Chapter 449.

The Committee made the following recommendation to the Board from their June 2, 2005 meeting.

**MOTION:** Kerry Griebenow moved, seconded by Gregory Foster, to recommend to the Board to appoint Dr. Foster as the designated representative to review the statutory changes and to support the revision to those changes to Chapter 449. Motion carried unanimously.

**Board's Action**

**MOTION:** Kathi Leach moved, seconded by Richard Wright, to accept the recommendation from the Statutes and Rules Committee to appoint Dr. Foster as the designated representative to review the statutory changes and to support the changes to Chapter 449. Motion carried unanimously.

**DISCUSSION AND REVIEW OF PROPOSED REVISIONS TO CHAPTER 449  
AND LRB-0678/P1 PROPOSED REVISIONS TO CHAPTER 449**

Peter Theo and Toni Dressen from WOA addressed the Board at today's meeting to share the history and information regarding their proposed revisions to Chapter 449. Peter Theo shared that Mr. Dressen has been the lobbyist for WOA and will present additional information and answer any questions the Board may have at this time. WOA met with the Wisconsin Medical Society and are currently waiting for comments from them. Tony Dressen shared with the Board the broad scope of five key elements that WOA has identified in this legislation and expressed what the impact they feel these revisions may have on the profession. WOA shared they would prefer to have consistency and would be willing to work with Dr. Foster on creating of one combined draft of the proposed changes to Chapter 449.

Ruby Jefferson-Moore, Legal Counsel, reviewed the specific proposed language for Chapter 449 to clarify the specific wording and intent of the language at today's meeting. The Board decided to accept a recommendation from Dr. Foster to see if they can marry the language between the two drafts and requested to table this until the next Board meeting scheduled for September 2005. The Board took the following action at today's meeting.

**MOTION:** Gregory Foster moved, seconded by Richard Wright, to table LRB 06-078/P1 until the next Board meeting to be held September 2005. Motion carried unanimously.

**UPDATE ON CONTINUING EDUCATION AUDITS  
BARBARA SHOWERS**

Jeff Scanlan, Director of Health Service Professions, reported that Barbara Showers informed him that the Office of Education and Examinations completed the CE audit. One-hundred (100) cases were audited, and fourteen (14) cases were opened for non-compliance of their continuing education requirements. Out of those fourteen cases, six were referred for discipline. One (1) case was closed and the other five (5) cases are still pending action.

**CORRESPONDENCE: RESPONSE FROM ATTORNEY WILLIAM BLACK TO  
CHARLES B. BROWNLOW, WOA**

Noted.

**CORRESPONDENCE: RECEIVED FROM ANDREA D. CONNELL TO THE  
OPTOMETRY EXAMINING BOARD REGARDING FEE DISCLOSURE**

The Board reviewed the correspondence at today's meeting and then referred this complaint letter to DOE for further investigation on this issue and concerns expressed by Andrea D. Connell regarding fee disclosure.

**MOTION:** Richard Wright moved, seconded by Leon Griffin, to refer this letter to DOE for further investigation. Motion carried unanimously.

Ruby Jefferson-Moore, Legal Counsel, will respond on behalf of the Board to Ms. Connell.

**CORRESPONDENCE: RECEIVED FROM JULIE EBERT, O.D. TO THE  
OPTOMETRY EXAMINING BOARD REGARDING IN-OFFICE  
BLOOD SUGAR TESTING**

The Board discussed the correspondence received from Julie Ebert, O. D. regarding in-office blood sugar testing. Ruby Jefferson-Moore, Legal Counsel, suggested that if it is acceptable to do diagnostic tests then it should be addressed through the rules or statutes changes being done at this time. Jeff Scanlan, Director of Health Service Professions, will respond on behalf of the Board to Dr. Ebert.

**DISCUSSION REGARDING THE NATIONAL BOARD OF EXAMINERS 10<sup>TH</sup>  
ANNUAL WORKSHOP**

Noted.

**INFORMATIONAL ITEMS**

Noted.

**CONSULTING WITH LEGAL COUNSEL**

The Board consulted with Ruby Jefferson-Moore, Legal Counsel, throughout today's meeting as needed. Ruby Jefferson-Moore requested that this item be removed from future meeting agendas. Jeff Scanlan, Director of Health Service Professions, will check on this request after today's meeting.

**VISITOR'S COMMENTS**

Noted.

**CONVENE TO CLOSED SESSION**

**MOTION:** Kerry Griebenow moved, seconded by Leon Griffin, to adjourn to closed session pursuant to Wisconsin Statutes 19.85(1)(a)(b)(f) and (g), deliberate on monitoring cases; deliberate on proposed stipulations, deliberate on administrative warnings, review DOE cases, and, consult with legal counsel. Roll Call Vote: Gregory Foster-yes; Kerry Griebenow-yes; Leon Griffin-yes, Kathi Leach-yes, Richard Wright-yes. Motion carried unanimously.

Open session recessed at 11:54 a.m.

**RECONVENE INTO OPEN SESSION**

**MOTION:** Kathi Leach moved, seconded by Richard Wright, to reconvene to open session at 12:05 p.m. Motion carried unanimously.

**VOTING ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION**

**DELIBERATION OF MONITORING THAT MAY BE RECEIVED AFTER  
THE MAILING OF THE AGENDA**

None.

**DELIBERATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED  
AFTER MAILING OF AGENDA**

None.

**DELIBERATION OF ADMINISTRATIVE WARNINGS ISSUED AFTER  
MAILING OF AGENDA**

None.

## **DIVISION OF ENFORCEMENT CASE STATUS REPORT**

- MOTION:** Leon Griffin moved, seconded by Richard Wright, to close case **03 OPT 004** for insufficient evidence. Motion carried unanimously.
- MOTION:** Kathi Leach moved, seconded by Gregory Foster, to close case **04 OPT 005** for prosecutorial discretion, compliance gained. Motion carried unanimously.
- MOTION:** Kathi Leach moved, seconded by Gregory Foster, to close case **04 OPT 006** for prosecutorial discretion, compliance gained. Motion carried unanimously.
- MOTION:** Kathi Leach moved, seconded by Gregory Foster, to close case **04 OPT 007** for prosecutorial discretion, compliance gained. Motion carried unanimously.
- MOTION:** Kathi Leach moved, seconded by Gregory Foster, to close case **04 OPT 008** for prosecutorial discretion, compliance gained. Motion carried unanimously.
- MOTION:** Kathi Leach moved, seconded by Gregory Foster, to close case **04 OPT 009** for prosecutorial discretion, compliance gained. Motion carried unanimously.

## **OTHER BOARD BUSINESS**

Chair Griebenow reviewed with the Board and Jeff Scanlan, Director of Health Service Profession, items to be completed by the next Board meeting scheduled for September 1, 2005.

## **ADJOURNMENT**

- MOTION:** Leon Griffin moved, seconded by Richard Wright, to adjourn the meeting at 12:14 p.m. Motion carried unanimously.